

Remarks

Claims 1 and 3 to 17 inclusive are being prosecuted.

Claims 2 has been deleted and Claim 1 has been amended to include all the limitations of deleted claim 2 and thereby better distinguish the present invention from the prior art by specifically defining the orientation angle β . This defined angle requires a specific structure and in effect defines inherent differences in structure between the present invention and the prior art. Claim 1 now clearly defines the fact that the device of the present invention is constructed so that it has portions positioned and constructed to ensure the user floats in a more upright position than would occur if a conventional or known similar floatation device were being used (the opposite effect to that required by Sabo – see below). Claim 1 as amended specifically defines the orientation angle β of user being floated as being between 45 and 90 degrees as described in the specification.

Reconsideration of the rejections of claims under 35 USC §103(a) in view of the combination of Baker and Sabo (or Bateman and Sabo) is respectfully requested in the light of the following.

First as previously argued neither Baker nor Bateman discloses a floatation device that when laid out in flat condition is W-shaped as defined in claim 1. This W-shape is important to the present invention as will be discussed more herein below and is defined in Claim 1 by the limitation

“said central portion and said pairs of front and lateral portions forming a simulated W-shape when viewed in a plan view”

In the Final rejection the Examiner argues that the Sabo reference shows what could be construed as a W shape. Sabo more closely approaches the claimed W shape than the other references, but it is submitted one must severely stretch the illustrated shape of the Sabo device to read into it a “W” shape. In all the relevant figures of Sabo it is submitted the device more closely resembles a Y shape than a W shape.

The lateral projections or lobes as they are described by Sabo as previously argued appear to extend partway under the arms, however in reviewing the text it appears they are only on the “front” of the wearer see the paragraph beginning at column 2 line 47 and particularly lines 56 to 62 reading

“ and a torso portion 23 integral and merging with and projecting outwardly away from the segmental collar portions 21, 21 at their front end region for fitting against

the front part of the wearer's neck and for positioning lengthwise of the wear's torso *at the front only thereof*" (emphasis added)

and column 4 lines 51 to 54 reading

"The divided torso portion 23 may be of elongated form and extends from the collar portions 21, 21 at their front end regions downwardly along the front but not the sides of the wearer's torso to about the region of his hips, and terminates at its lower end in opposed latterly-extending projections 43, 44 which may be lobes of rounded form--"(emphasis added)

clearly indicating that the front portion (torso portion) is intended to be primarily on the front (column 2 47 to 62) and to extend "**along the front but not the sides**" of the wearer (column 4 lines 51 to 54).

The Examiner contends that the above quotes are taken out of context and directs attention to cloumn4 lines 54 to 56 which where quoted in Applicant's previous submission and which read

"... and terminates at is lower end in opposed latterly extending projections 43, 44 which may be lobes of rounded form in plan as shown in Figure 3."

To clarify what is meant please turn to Figure 2 the only figure in Sabo showing the invention in place on the wearer. This figure clearly illustrates that the lobes do extend partially around the side of the wearer, but clearly are not under the arms of the user when the user is in floating position as shown.

Further significant differences in structure between the prior art (Sabo) and the structure defined in claim 1 are defined by the limitation in Claim 1 that requires that

"each of said lateral portions projecting from its front portion a distance sufficient to extend under an adjacent arm of a user **and provide a portion of said lateral portion positioned behind said user**" (bolding emphasis added)

Definitely this structure is not shown in Sabo and contributes significantly to obtaining the defined orientation angle β .

As previously indicated the orientation of the user in the water is important to the effective use of this invention which is constructed to ensure that the wearer float

"user to float in an upright position at an angle β of between 45 and 90 degrees"

The range 45 to 90 degrees defines the limits of flotation position which result in the least instances of mouth immersion. A vertical position (90 degrees) places the mouth as high out of the water as possible. Inclining the head backwards, towards 45 degrees places

progressively more of the protrusions on the inflatable bladder under water, thus providing additional buoyancy which in turn results in maintaining the freeboard or distance above the water of the mouth.

The lateral projections, which as defined in claim 1 pass under the arms and extend to a portion at the back of the wearer, provide the buoyancy necessary to produce the higher than normal freeboard. The the lateral projections also tend to keep the buoyancy relatively constant as the torso inclines backwards, thereby maintaining freeboard. If the projections were shorter the buoyancy would be reduced as the backwards leaning angle increases. Alone, these projections would produce an unstable floatation position with the wearer tending to pitch forward into a face down position or backwards into a face up position. The front lobes, which are located in a normal position, close to the body on either side of the chest, resist the forwards tendency. The back portion resists the backwards rotation.

Reconsideration of the dismissal of this limitation (orientation angle β) as simply defining function only is respectfully requested. Clearly the device of the present invention must have specific structural elements, with positions, sizes, etc. for this orientation to be achieved. A specific structure is required to obtain this orientation (important to the invention) and provides another clear structural difference between this invention and Sabo (see below). This orientation of the floating user is not merely stating a function, it is defining a structure required to attain this orientation of the floating user. This is very clear when one considers the structure of the prior art namely Sabo who clearly defines a lobed structure that cannot attain this orientation i.e. Sabo has not recognized this advantage and specifically states in the paragraph beginning at column 8 line 36 that

"each has its center of buoyancy at and somewhat above the front of the wearer's torso
so that the wearer is compelled to float upon his back -----"(emphasis added)

Clearly it is the intention of Sabo to make the user float on his back and has structured his device accordingly. Sabo's invention has the opposite effect to that required and obtained when using the present invention.

It is believed that this application is now in condition for Allowance and such action is respectfully requested.

Respectfully submitted,

C.A. Rowley 20,781

Agent for Applicant

Date: 11/30/2005

Telephone: (613) 398 1409

7

Certificate of Transmission

I hereby certify that this correspondence (**Total 7 pages**) is being facsimile transmitted to the United States Patent and Trademark Office (Fax no. (571) 273 8300) on November 30, 2005

Typed name of the person signing this certificate
Signature

(Date)

C.A. Rowley

